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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,041	12/12/2005	Frederic W Strobel	1-36863	1972
43935 7590 06/11/2008 FRASER CLEMENS MARTIN & MILLER LLC 28366 KENSINGTON LANE PERRYSBURG, OH 43551				
EXAMINER LEE, GILBERT Y				
ART UNIT 3673		PAPER NUMBER		
NOTIFICATION DATE 06/11/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/541,041

**Applicant(s)**

STROBEL ET AL.

**Examiner**

GILBERT Y. LEE

**Art Unit**

3673

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The amendment filed 3/14/08 has been entered.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swatt (US Patent No. 3,644,946) in view of Adams (US Patent No. 6,357,065).

Regarding claim 18, the Swatt reference discloses a bariatric patient management system (Fig. 1) comprising:

a main frame (e.g. 11) having a first end (e.g. end at 12) and a second end (e.g. end at 13);

a backrest section (e.g. 22) disposed on said main frame adjacent the first end; said backrest section including at least one backrest panel (e.g. 22), and a backrest actuator (50) linked to said backrest section to selectively cause an inclination of said backrest panel (Col. 2, Line 60-Col. 3, Line 2);

a middle section (e.g. 21) disposed on said main frame adjacent said backrest section, said middle section including at least one middle panel (e.g. 21);

a leg section (e.g. 24) disposed on said main frame adjacent said middle section, said leg section including at least one leg panel (e.g. 24), and a leg actuator (80) linked to said leg section to selectively cause an inclination of said leg panel (Col. 3, Lines 16-20);

a foot section (e.g. 26) disposed on said main frame adjacent the leg section and the second end of said main frame, said foot section including at least one foot panel (e.g. 26), and a foot actuator (e.g. 93) linked to said foot section to selectively cause an inclination of said foot panel relative said frame (Col. 3, Lines 28-40); and

ground engaging wheels (17) disposed on said main frame to facilitate a transporting of the bariatric patient management system,

wherein the backrest panel, the middle panel, the leg panel, and the foot panel cooperate to form a mattress supporting surface (Figs. 2).

However, the Swatt reference fails to explicitly disclose a backrest side pull out extension slidably disposed in a side of the backrest section, a middle side pull out extension slidably disposed in a side of the middle section, a leg side pull out extension slidably disposed in a side of the leg section, and a foot side pull out extension slidably disposed in a side of the foot section, said backrest side pull out extension, said middle side pull out extension, said leg side pull out extension, and said foot side pull out extension cooperate to selectively increase a width of the mattress supporting surface.

The Adams reference, a patient support, discloses a backrest side pull out extension (e.g. 76) slidably disposed in a side of the backrest section, a middle side pull out extension (e.g. 77) slidably disposed in a side of the middle section, a leg side pull

out extension (e.g. 78) slidably disposed in a side of the leg section, and a foot side pull out extension (e.g. 79) slidably disposed in a side of the foot section, said backrest side pull out extension, said middle side pull out extension, said leg side pull out extension, and said foot side pull out extension cooperate to selectively increase a width of the mattress supporting surface (Figs. 6 and 7).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide pull out extensions for the backrest, middle, leg, and foot sections to the Swatt reference in view of the teachings Adams in order to support a relatively wide mattress that is particularly suitable for use by obese patients (Adams, Col. 1, Lines 10-13).

Regarding claim 15, the Swatt reference, as modified in claim 18, discloses the actuators being at least one of a push actuator and a pull actuator (Swatt, Figs. 2-3).

Regarding claim 16, the Adams reference discloses the actuators being electric actuators (Swatt, Col. 2, Lines 72-75).

Regarding claim 17, the modified Swatt reference discloses the invention substantially as claimed in claim 18.

However the modified Swatt reference fails to explicitly disclose the actuators being hydraulic actuators.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide hydraulic actuators to the modified Swatt reference as a mechanical expedience and in order to provide a smooth lifting action.

3. Claims 14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swatt in view of Adams as applied to claims 15-18 above, and further in view of Allen et al. (US Pub. No. 2001/0001163).

Regarding claims 14 and 19, the modified Swatt reference discloses the invention substantially as claimed in claim 18.

However, the modified Swatt reference fails to explicitly disclose an extensible end pull out extension.

The Allen et al. reference, a hospital bed, discloses the addition of an extensible end pull out extension (Para. [0038]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide an extensible end pull out extension to the modified Swatt reference in view of the teachings of the Allen et al. reference in order to allow the bed to fit into smaller elevators and to save space during storage of the bed (Allen et al., Para. [0036]).

4. Claims 11, 12, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swatt in view of Adams as applied to claims 15-18 above, and further in view of Spath (US Patent No. 4,847,930).

Regarding claim 11, the modified Swatt reference discloses the invention substantially as claimed in claim 18.

However, the modified Swatt reference fails to explicitly disclose a trapeze base frame having a two-point mounting configuration.

The Spath reference, a hospital bed, discloses a trapeze base frame (e.g. 34) having a two-point mounting configuration (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a trapeze base frame having a two-point mounting configuration to the modified Swatt reference in view of the Spath reference in order to allow a patient to raise themselves (Spath, Col. 1, Lines 6-22).

Regarding claim 12, the modified Swatt reference, as modified in claim 11, discloses the trapeze base frame including a pivotally mounted trapeze boom (Spath, e.g. 29).

Regarding claim 21, the modified Swatt reference, as modified in claim 11, discloses the trapeze base frame including a pair of outwardly extending arms (31 and 33).

5. Claims 13, 20, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swatt in view of Adams as applied to claims 15-18 above, and further in view of Bartlett et al. (US Pub. No. 2002/013905).

Regarding claims 13 and 20, the modified Swatt reference discloses the invention substantially as claimed in claim 18.

However, the modified Swatt reference fails to explicitly disclose at least one load cell mounted between said wheels and said main frame, said at least one load cell adapted to provide a weight of the bariatric patient management system.

The Bartlett et al. reference, a hospital bed, discloses at least one load cell (422) mounted between said wheels and said main frame (Fig. 31), said at least one load cell adapted to provide a weight of the bariatric patient management system (Para. [0166]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide at least one load cell mounted between said wheels and said main frame, said at least one load cell adapted to provide a weight of the bariatric patient management system to the modified Swatt reference in view of the teachings of the Bartlett et al. reference in order to monitor a patient's weight.

Regarding claim 24, the Swatt reference, as modified in claim 20, discloses the main frame including a hollow member (Adams, e.g. hollow members of 20 and 22 engaging casters 18) supporting the load cell (Adams, Fig. 1). Note that the Bartlett et al. reference discloses the load cells being mounted on the casters (Para. [0167]) and would therefore go in the hollow members 20 and 22 of the Adams reference.

6. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Swatt in view of Adams and Spath as applied to claims 11, 12, 15-18, and 21 above, and further in view of Johnston et al. (US Patent No. 4,409,695).

Regarding claim 22, the modified Swatt reference discloses the invention substantially as claimed in claim 12, including the trapeze base frame including a plurality of apertures (Spath, e.g. apertures holding pins 23) formed therein, a locking pin selectively cooperating with one of the plurality of apertures to lock the trapeze boom in a desired position (Spath, Col. 3, Lines 1-14).



However, the modified Swatt reference fails to explicitly disclose the locking pin being spring loaded.

The Johnston et al. reference, an adjustable bed for morbidly obese patients, discloses using spring loaded engagement pins (87).

It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the locking pins of the modified Swatt reference with spring loaded engagement pins in view of the teachings of the Johnston et al. reference in order to ensure easy adjustment and to ensure that the pins do not get lost during adjustment.

7. Claim 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swatt in view of Adams as applied to claims 15-18 above, and further in view of Alexander (US Patent No. 6,173,461).

Regarding claim 23, the modified Swatt reference discloses the invention substantially as claimed in claim 18.

However, the modified Swatt reference fails to explicitly disclose a motor to cause rotation of at least one of the wheels.

The Alexander reference, a support unit, discloses a motor coupled to at least one of the wheels (Claim 4).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a motor to the modified Swatt reference in view of the teachings of the Alexander reference in order to provide propulsion of the support unit (Alexander, Claim 4).

8. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Swatt in view of Adams, Spath and Bartlett et al.

Regarding claim 25, the modified Swatt reference discloses the invention substantially as claimed in claim 18.

However, the modified Swatt reference fails to explicitly disclose a trapeze base frame having a two-point mounting configuration disposed on said main frame adjacent the first end and at least one load cell mounted between said wheels and said main frame.

The Spath reference, a hospital bed, discloses a trapeze base frame (e.g. 34) having a two-point mounting configuration (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a trapeze base frame having a two-point mounting configuration to the modified Swatt reference in view of the Spath reference in order to allow a patient to raise themselves (Spath, Col. 1, Lines 6-22).

The Bartlett et al. reference, a hospital bed, discloses at least one load cell (422) mounted between said wheels and said main frame (Fig. 31), said at least one load cell adapted to provide a weight of the bariatric patient management system (Para. [0166]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide at least one load cell mounted between said wheels and said main frame, said at least one load cell adapted to provide a weight of the bariatric patient

management system to the modified Swatt reference in view of the teachings of the Bartlett et al. reference in order to monitor a patient's weight.

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 11-25 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GILBERT Y. LEE whose telephone number is (571)272-5894. The examiner can normally be reached on 8:00 - 4:30, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia L. Engle can be reached on (571)272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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